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37 **CITY OF OAKDALE**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO COURTHOUSE

BRANDON GRAY,

Plaintiff,

v.

CITY OF OAKDALE, a municipal corporation; City of Oakdale Police Department Officers **DOES 1-10**, individually; **CITY OF MODESTO**, a municipal corporation; City of Modesto Police Department Officers **DOES 11-20**, individually; **COUNTY OF STANISLAUS**, a public entity; Stanislaus County Sheriff's Department Deputies **DOES 21-30**, individually; California Highway Patrol Officers **DOES 31-40**, individually; and **DOES 41-100**, Jointly and Severally,

Defendants,

Case No.: 1:21-cv-01086-JLT-BAM

**STIPULATION AND ~~PROPOSED~~
ORDER TO CONTINUE SCHEDULING
CONFERENCE**

Plaintiff, BRANDON GRAY ("Plaintiff"), by and through his counsel of record, Defendant CITY OF MODESTO ("CITY"), by and through its counsel of record, and Defendant CITY OF OAKDALE, by and through its counsel of record, hereby respectfully stipulate to continuing the initial mandatory scheduling conference for the very last time for six weeks, from July 14, 2022, at 9:00 a.m., until August 25, 2022, at 9:00 a.m., if that is acceptable and convenient for the Court.

Good cause exists for continuing the initial mandatory scheduling conference because counsel for Plaintiff, the City of Oakdale, and the City of Modesto have exchanged documents and have been actively engaged in early settlement discussions. Indeed, Plaintiff's claims against the City of Oakdale and its employees have been settled, as reported in the Notice of Settlement, filed on July 6, 2022. ECF No. 40. Once the consideration for that settlement is received, a

dismissal of the City of Oakdale Defendants will be filed. The County of Stanislaus Defendants have been dismissed from the action, pursuant to a stipulation to that effect. ECF Nos. 34-35. The only remaining claims are against the City of Modesto and its employees. Discussions between counsel for the City of Modesto Defendants and counsel for Plaintiff commenced before, as stated in the prior stipulation, but were delayed because the City of Modesto's counsel has been in trial until recently; nonetheless, discussions have resumed, and counsel should know fairly soon whether these claims will be resolved or will proceed to litigation. Continuing the settlement conference while the Plaintiff and the last remaining Defendants, the City of Modesto Defendants, attempt to resolve the matter early, in good faith, will allow counsel for these parties to continue to conserve the time involved in preparing a joint scheduling report, as well as attending the conference, and will allow the Court to conserve the time expended in holding the scheduling conference, and issuing a scheduling report.

The passage of time will not result in prejudice because the parties have preserved, marshaled, and reviewed footage, including drone footage, body worn camera footage, and a cellular phone video taken by a bystander, all of which captured various aspects of the incident, which is helping to facilitate settlement discussions. If the present discussions do not yield a settlement, the remaining parties will not be prejudiced, and the case will be ready to proceed on a normal schedule because the parties have already exchanged the key documents and information that would be encompassed in formal Federal Rule of Civil Procedure 26(a)(1) disclosures.

IT IS SO STIPULATED.

Dated: July 7, 2022

Respectfully submitted,

THE LAW OFFICE OF SANJAY S. SCHMIDT
-AND
THE BOGAN LAW FIRM, APC

By: /s/ Sanjay S. Schmidt
SANJAY S. SCHMIDT
Attorneys for Plaintiff
BRANDON GRAY

1 Dated: July 7, 2022

ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

3 By: /s/Patrick D. Moriarty*

4 PATRICK D. MORIARTY
5 JOHN B. ROBINSON
6 Attorneys for Defendant
CITY OF MODESTO

7 Dated: July 7, 2022

FERGUSON, PRAET & SHERMAN

8 By: /s/ Bruce D. Praet*

9 BRUCE D. PRAET
10 Attorneys for CITY OF OAKDALE
11 Defendant

12 *Mr. Moriarty and Mr. Praet gave their consent to file this document via CM-ECF.

13 **ORDER**

14 The Court, having reviewed the parties' stipulation and request, and good cause
15 appearing, finds and orders as follows:

16 The Scheduling Conference is HEREBY CONTINUED to **August 22, 2022, at 9:30**
17 **AM, in Courtroom 8 (BAM), before Magistrate Judge Barbara A. McAuliffe**. The parties
18 shall file a Joint Scheduling Report one week prior to the conference. The parties shall appear at
19 the conference remotely with each party connecting either via Zoom video conference or Zoom
20 telephone number. The parties will be provided with the Zoom ID and password by the
21 Courtroom Deputy prior to the conference. The Zoom ID and password are confidential and are
22 not to be shared. Appropriate court attire required.

24 IT IS SO ORDERED.

25 Dated: July 7, 2022

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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